

1 Name: Ueon Bak
2 Address: 15000 Pacific st Apt 208
3 Midway City, CA 92655
4 Phone: (714) 968-9544

5 Plaintiff In Pro Per

Paid
N/S

2018 AUG 30 AM 11:48

CLERK'S DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
FRESNO, CALIF.

BY DV

FILED

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7 **UNITED STATES DISTRICT COURT**
8 **CENTRAL DISTRICT OF CALIFORNIA**

9
10 Ueon Bak,) Case No.: SACV18-1547 A/G(ADSx)
11 PLAINTIFF,) (To be supplied by the Clerk)
12 vs.) COMPLAINT FOR:
13 Megan Brennan) Penal Offence.
14 Post Master General) Fraud, Scam.
15 U.S.P.S)
16)
17) Jury Trial Demanded
18 DEFENDANT(S).)
19)

20 **I. JURISDICTION**
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22 1. This Court has jurisdiction under _____

23 Central District of California.
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2 II. VENUE
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2. Venue is proper pursuant to Orange County.
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10 III. PARTIES
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3. Plaintiff's name is Ueon Bak. Plaintiff resides
at: 15000 Pacific Ave 208
Midway City, CA 92655
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4. Defendant Megan Brennan.
Post Master General U.S.P.S
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5. Defendant _____
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1 **VII. DEMAND FOR JURY TRIAL**

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4 Plaintiff hereby requests a jury trial on all issues raised in this complaint.

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6 Dated: 8/30/2018

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9 Sign: Ueon Bak

10
11 Print Name: UEON BAK

12 Plaintiff in pro per

FILED

1 Name: Ueon Bak
 2 Address: 15000 Pacific St Apt. 208
Midway City, CA 92655
 3
 4 Phone: (714) 968-9544
 5 Fax: _____
 6 In Pro Per
 7

2016 MAR 14 AM 10:40

CLERK U.S. DISTRICT COURT
CENTRAL DIST OF CALIF.
SANTA ANA

UNITED STATES DISTRICT COURT	
CENTRAL DISTRICT OF CALIFORNIA	
10 <u>UEON BAK, an individual</u>	CASE NUMBER: <u>SACV15-01931-JVS(EX)</u>
11 Plaintiff	To be supplied by the Clerk of The United States District Court
13 v. <u>Megan Brennan, P.M.</u> 14 General, USPS	15 Plaintiff(s) <u>Penal Offense</u> <u>Fraud / SCAM</u>
16	17 Key points of this case

- 18 ① Defendant Violated the Statute of
- 19 Limitation
- 20
- 21 ② perjury in front of Judges
- 22
- 23 ③ Forgery on the official Document
- 24
- 25 ④ Labor laws Violation in the
- 26 Family emergency .
- 27

28 Dated 3/14/2016

Ueon Bak
UEON BAK, plaintiff

STATEMENT OF THE CASE

1 Ueon Bak
15000 Pacific St., Apt. 208
2 Midway City, CA 92655
2 Tel: (714) 968-9544

3 Plaintiff In Pro Per
4

U.S COURT OF APPEALS FOR THE NINTH CIRCUIT.

5 P.O BOX 193939
6 San Francisco, CA 94119 - 3939

7 UEON BAK, an individual;

8 To: Molly C. Dwyer
Clerk of court.

9 Plaintiff,

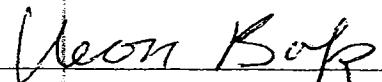
10 v.
11 New petition
12 Megan Brennan, Postmaster General, U.S.
Postal Service,
13 Defendants -Apelles.

File for Penal Offence
Fraud and Scam .

14 I ask court to open new case for penal offence fraud and scam.

- 15 1. Labor Laws violation with the family emergency.
16 2. perjury statement in the court.
17 3. Forgery with official Document.
18 4. defendant (postal Service) violated the statute of the limitation.
19 5. Old case # is 1056924

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21 Respectfully submitted,
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25 Ueon Bak, Plaintiff In Pro Per
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27 Dated :09/12/2016
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**SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001**

August 20, 2018

Ueon Bak
15000 Pacific St.
Apt. 208
Midway City, CA 92655-1402

Dear Mr. Bak:

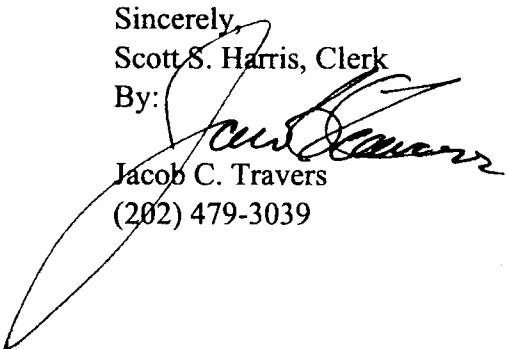
The papers were received on August 20, 2018. These papers fail to comply with the Rules of this Court and are herewith returned.

You may seek review of a decision only by filing a timely petition for writ of certiorari. The papers you submitted are not construed to be a petition for writ of certiorari. Should you choose to file a petition for writ of certiorari, you must submit the petition within the 90 day time limit allowed under Rule 13 of the Rules of this Court. A Copy of the Rules of this Court and a sample petition for a writ of certiorari are enclosed.

Your case must first be reviewed by a United States court of appeals or by the highest state court in which a decision could be had. 28 USC 1254 and 1257.

Sincerely,
Scott S. Harris, Clerk
By:

Jacob C. Travers
(202) 479-3039



Enclosures

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am at least 18 years of age, not a party to this action, and I am a resident of or employed in the county where the mailing took place.

On 8/30, 2018, I caused a copy of the following documents:

1 . Requesting review the case. .

To be delivered on the interested party(ies) in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

PATRICK R. DONAHOE, POSTMASTER GENERAL U.S. POSTAL SERVICE

Defendants.

[xx] **BY FIRST CLASS MAIL:** I am readily familiar with this firm's practice of collection and processing correspondence for mail with the United States Postal Service. The envelope was sealed and placed for collection that same day following ordinary business practices.

BY FACSIMILE: I caused the above-named document to be transmitted to the offices of the addressee(s) at the facsimile number(s) indicated above. The transmission was reported as complete and without error.

BY E-MAIL OR ELECTRONIC TRANSMISSION: Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the document to be sent to the person(s) at the e-mail address(es) listed on the attached list. I did not receive, within a reasonable time after the transmission, any electronic message or other indications that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on 8/30, 2018, at Midway City, California

Kyong No

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED



오렌지카운티 한미 시민권자 협회
Orange County Korean-U.S. Citizens League
9636 Garden Grove Blvd. #17, Garden Grove, CA 92844
Tel: (714) 534-7720 Fax: (714) 534-6897

Dear Honorable Magistrate Judge.

May 27, 2016

Please this case take care of for "950 Constitutional Rights " He has a struggle 27 Years...

Sincerely yours ..

OC Korean US Citizens League

Board of Director

Do Young Kim

Dear MR. Kevin Finn 7/25/2018
Life is very short.

I lost 29 years of my precious life range due to taking 9 year-old daughter one midnight 29 years ago.

I took 2 hours early home to take care of my daughter. I lost career and home life and retirement annuity and sharp savings more than \$300,000. for lawyers' fees and mail service and courts' filing fees. Please would you explain legal and ethical reasons for this judicial and administrative murder. Will out.

Sincerely, Ueon Bak

Ueon Bak
15000 Pacific St., Apt. 208
Midway City, CA 92655

REASONS FOR GRANTING THE PETITION

I think he is in his 70s now if I am not mistaken. Can you please ask him the following questions and have him explain or better yet in writing if he can write you a narrative as to following:

① age ② Korean ③ Whistle-blower
false accusation MR. James PAK (LawYee)
What exactly he thinks is the nature of discrimination against him? MR. Greg Bartone (LawYee)
MR. Rich Cantu (union president)

- 1 Name all witnesses who witnessed and can attest to these facts (who are still alive)
① MR. Rich Cantu (914) 730-0539 ② MR. Greg Bartone (914) 966-7068 2
- 3 Provide us with full contact information of each witness, including address/phone numbers/ email addresses
③ MR. James PAK (914) 636-9980
- 4 Names of all supervisors and his immediate supervisor that fired him all higher 3 persons passed away.
- 5 Full contact information including address/phone numbers/ email addresses of all individuals (who are still alive) in number 4. Hector, peggy, Butts : all higher people passed away.
- 6 Date of his firing/termination or reassignment 9/11/1989 always
- 7 What was his position at the time of his termination 204B Supervisor
- 8 How long was he employed at this place prior to his termination 9/15/1998 ~ 9/11/1989 5. A. 9/11/1989 ~ 9/11/1989 ~ 10 1/2 yrs 4/7/73/ 3/7/73/ Gardena 9/24/70/11/12/14/2/2/1
- 9 Was there ever a formal reprimand in his file prior to his termination NO ONE 9/24/70/11/12/14/2/2/1
- 10 Did he go through the internal process for appealing the decision Just forged 9/11 ~ 9/11
- 11 Who was the HR person at the time and his/her full contact information Margaret Oliver !
- 12 Any documents that he was presented at his termination meeting (does he have anything) Just forged
- 13 Copy of all pleadings he has, ask him to make a copy for us. Santa Ana plant has it all.

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BALK, POSTAL SERVICE

FACTS AND PROCEDURAL HISTORY

Balk is an American citizen of Korean descent who was 46 years old at the time of the alleged discrimination. He was employed by the United States Postal Service (Postal Service) from October 1978 until September 1989. In early August 1989, Balk received a notice of proposed removal alleging an absence without official leave. In response, on August 10, 1989, Balk submitted his resignation which was to become effective September 1, 1989.

Despite his resignation, Balk continued to work until September 11. On September 12, he attempted to withdraw his resignation. Because the effective date had already passed, the Postal Service declined to accept Balk's withdrawal, although it did extend the effective date to September 11, compensating Balk for time worked after his resignation became effective.

On September 22, 1989, Balk filed an administrative complaint with the EEOC alleging discrimination based on race, color, religion, national origin, sex, age, and refusal. His apparent contention was that the Postal Service's refusal to accept his withdrawal of resignation was discriminatory. The only evidence offered by Balk regarding discrimination was the stories of other Postal Service employees who were permitted to withdraw their resignations.

After a hearing, an administrative law judge (ALJ) held that Balk failed to establish a prima facie case of discrimination based on his national origin. Balk appealed the ALJ's decision to the EEOC Office of Review and Appeals which affirmed the decision. Finally, Balk moved to reopeal or for reconsideration. In response to the motion, the EEOC noted Balk's complaint alleged discrimination on the basis of race, color, religion, sex, age and national origin. However, it denied the motion because Balk failed to establish a basis for reopeal or reconsideration, and it affirmed its previous decision, stating Balk failed to establish a prima facie case of discrimination.

based on race or color. This final decision of the EEOC was issued on March 3, 1991.

On February 19, 1993, Bak filed a civil suit in federal district court alleging age discrimination, pursuant to 29 U.S.C. §§ 621, et seq., the Age Discrimination in Employment Act of 1967 (ADEA), as a result of the Postal Service's refusal to accept his withdrawal of resignation. The district court dismissed the complaint for lack of subject matter jurisdiction, holding that Bak had failed to exhaust his administrative remedies. Bak timely appeals the district court's dismissal.

DISCUSSION

A. Standard of Review

We review *de novo* the district court's determination that Bak failed to exhaust his administrative remedies. See *EEOC v. Farmer Bros. Co.*, 31 F.3d 891, 899 (9th Cir. 1994).

B. Exhaustion Requirement

The district court held that, although Bak exhausted his administrative remedies with respect to his racial discrimination claim, he "failed to adequately show that his age discrimination claim was not abandoned during the administrative proceedings." On appeal, Bak concedes he abandoned his age discrimination claim during the administrative proceedings. Consequently, we hold that Bak failed to exhaust his administrative remedies with respect to this claim. See *Vialveratos v. United States, Dep't of Air Force*, 939 F.2d 762, 770 (9th Cir. 1991) ("[A]bandonment of the administrative process may suffice to terminate an administrative proceeding before a final disposition is reached, thus preventing exhaustion and precluding judicial review."); *Rivera v. United States Postal Service*, 830 F.2d 1037, 1039 (9th Cir. 1987) ("To withdraw is to abandon one's claim, to fail to exhaust one's remedies."); cert. denied, 486 U.S. 1009 (1988). However, Bak contends

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Bak v. Postal Service

he was not required to exhaust his administrative remedies prior to filing a civil suit. Likewise, the Government has revised its position on appeal and also contends Bak was not obligated to exhaust his administrative remedies.

[1] The district court relied on our decision in *Rivera* to impose an exhaustion requirement. See 830 F.2d at 1037. In *Rivera*, the claimant filed an administrative complaint alleging age discrimination, and the Postal Service ruled against him. Thereafter, he filed a notice of appeal to the EEOC. *Id.* at 1038. However, before resolution of the appeal, the claimant "requested[] 'cancellation' of his notice of appeal" and filed a civil suit. *Id.* We held that the claimant was not free to file suit until his administrative remedies had been exhausted which occurred only after the EEOC's final ruling on the claim. *Id.* at 1039. We reasoned that "once a party appeals to a statutory agency, board or commission, the appeal must be 'exhausted.'" *Id.*

[2] Since this court's decision in *Rivera*, the EEOC regulations governing age discrimination claims have been amended to state that the filing of a civil action based on age discrimination terminates any agency proceeding regarding the same claim. 29 C.F.R. § 1613.513 ("The filing of a civil action by an employee or applicant involving a complaint filed under this subpart terminates processing of that complaint"). The effective date of this amendment was November 30, 1987. See 52 Fed. Reg. 41,920 (1987). However, we have not yet addressed the issue of whether a claimant must exhaust his administrative remedies prior to filing a civil suit claiming age discrimination in light of the amended regulations.

The Supreme Court had the opportunity to resolve the issue in *Stevens v. Department of Treasury*, 500 U.S. 1 (1991). In *Stevens*, the claimant appealed the dismissal of his complaint, which alleged age discrimination, for failure to give the EEOC proper notice of his intent to file a civil suit. Although presented with the issue of whether a claimant is required to

exhaust his administrative remedies before pursuing a civil action, the Court reversed the dismissal only on the grounds that the claimant had complied with notice requirements and declined to address the exhaustion issue. It noted the Government had abandoned its position that exhaustion was necessary and, like the claimant, asserted that "a federal employee who elects agency review of an age discrimination claim need not exhaust his administrative remedies before bringing a civil action." *Id.* at 9. As a result, the Court concluded there was no adversity and declined to rule on the merits of the exhaustion issue. *Id.* at 10.

[3] Although the Supreme Court has declined to address the issue, two circuit courts have interpreted the amendments to the EEOC regulations as eliminating the exhaustion requirement in age discrimination cases. The Second Circuit, in dictum, stated that "the . . . view that exhaustion is not required even if the ADRA claimant has initiated administrative proceedings is undoubtedly correct for suits commenced after November 30, 1987, since otherwise the claimant who pursues both avenues would find both administratively closed." *Bornholdt v. Brady*, 869 F.2d 57, 63 (2d Cir. 1989).

Likewise, the Seventh Circuit has rejected the exhaustion requirement in age discrimination cases. In *Adler v. Espy*, 35 F.3d 263 (7th Cir. 1994), the claimant commenced an administrative proceeding to pursue his age discrimination claim and then filed a suit in federal district court. After the filing of the civil suit, the agency cancelled the claimant's administrative complaint. The district court then dismissed the civil complaint for failure to exhaust his administrative remedies. *Id.* at 264. Relying on the amended regulations, the court rejected the exhaustion requirement in cases of age discrimination. *Id.* at 265. It reasoned that:

The principal ground for [the exhaustion requirement] is that agencies shouldn't be put to the bother of conducting administrative proceedings from

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Bak v. Postal Service

which the claimant can drop at any time without consequences. . . . [I]t is a consideration designed for the benefit of the agencies, not of the judges, and if the agencies don't want it, there is no reason for us to give it great weight.

Id.

[4] In accord with the Second and Seventh Circuits, we hold that a claimant is no longer required to exhaust his administrative remedies with regard to an age discrimination claim prior to filing a civil suit.¹ The result of Regulation 1613.513, in effect at the time Bak filed his complaint, is to terminate any uninitiated administrative proceedings when a claimant files a civil suit. See 29 C.F.R. § 1613.513. Similarly, an exhaustion requirement would terminate any civil suit filed. Thus, the joint effect of the amended regulations and exhaustion requirement would be to leave the claimant without any avenue of relief.

Admittedly, this joint effect of an exhaustion requirement and the amended regulations does not arise in Bak's case, because his administrative proceedings were complete when he filed his civil suit, at least with respect to his racial discrimination claim. Bak had appealed to the highest administrative authority and even made a motion to reopen or for reconsideration which was denied. Thus, at the time Bak filed his civil suit, there was no pending administrative proceeding to terminate. However, an exhaustion requirement in this case would still prejudice Bak because he has no forum in which to bring his age discrimination claim: the time for filing another administrative complaint has expired, and an exhaustion requirement would preclude a civil suit.

¹We emphasize that our holding is limited to age discrimination claims governed by EEOC regulations. See, e.g., EEOC v. Farmer Bros. Co., 31 F.3d 891, 899 (9th Cir. 1994) (holding claimant must exhaust administrative remedies before litigating discriminatory lay off claim).

BAK v. Postal Service

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The primary goal of the exhaustion requirement is to prevent simultaneous proceedings regarding the same claim. The amended regulations resolve this problem, and the Government concedes exhaustion is not necessary. Consequently, the agency no longer supports the requirement. Thus, we hold that the amended regulations eliminate the exhaustion requirement for age discrimination claims and vacate the district court's dismissal for lack of subject matter jurisdiction and remand.

VACATED and REMANDED. No costs allowed.

BEFORE THE U. S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
PHOENIX DISTRICT OFFICE
3300 NORTH CENTRAL AVENUE, SUITE 450
PHOENIX, ARIZONA 85012

UEON BAK

Complainant,

EEOC CASE NO.
350-99-8368X

WILLIAM HENDERSON,
Postmaster General
USPS
Scotts Air District

Agency.

AGENCY CASE NO.
4R-926-0866-98

ORDER

A. Motion For Reconsideration

On November 2, 2000, the Agency's Motion For Reconsideration was received in this office. The Complainant's response was received on November 27, 2000.

After careful review of the parties' submissions, I have determined that there is no basis for revoking the sanction against the Agency for their failure to comply with Administrative Judge Kurt C. Hodges' Order To Show Cause issued on June 13, 2000. The Agency alleged that the Complainant has previously litigated the issue in the initial complaint (denial of reinstatement) in various forums, and therefore, he is precluded from obtaining relief on that claim because of the principle of collateral estoppel. The Agency provided documentation which demonstrated that the Complainant litigated his alleged wrongful termination in multiple forums but did not prove that he has previously litigated the denial of his reinstatement requests.

Accordingly, the Agency's Motion For Reconsideration is DENIED.

B. Damages/Relief

On September 7, 2000, the undersigned ordered the Complainant to indicate whether he intended to claim compensatory damages and to specify the evidence that he intended to rely upon to support the claim.

On September 14, 2000, the Complainant requested an additional ten days to submit the requested information. The undersigned gave the Complainant until November 3, 2000, to submit the requested information to this office.

On November 3, 2000, the Complainant's submission was received in this office. The



Southwest Coastal Area
Local

American Postal Workers Union AFL-CIO

APWU

Executive Board

Richard Cantu
David R. Odora
Chester Shelloa
Debbie Moses
Kevin Cole
Eddie Soler

Chief Stewards

Elsie Duarte
Kevin Cole
James McDaniel
Ron Lucio
Rosemarie Rodriguez
Terry Hood
Jim Lugo
Joe Festil
Jason Adam
Richard Arroyo
Elsa Della Torre
Kang Ping Wu
Pamela Calderon
Carrie Zeller
Diana Phan
Reggie Rose
Joe DeJuna
Micaela Canillo
Tina Chow
Dean Osborn

Trustees:

Walter Lovett
Wilma Antaga
Ron Lucio
Jack Weisenberg
Leonard Trujillo
Wadie Sgadara
James Chiang

1251 N Tustin Ave, Anaheim, CA 92807
Phone 714-666-1080 Fax 714-666-1701
WEB Site: <http://www.swcal.org>

Richard Cantu
President

March 8, 2013

To: Robert J Barnhart
Director Compliance and Control Division
Office of Federal Operations
Subject: Appeal Agency # 4F926004013

New Docket #
05-2013-0516

Dear Mr. Barnhart

I represented Mr. Ueon Bak in a EEO hearing on 12-4-2000 before Administrative Judge Kurt C. Hodges. The USPS had made a motion for Reconsideration on a previous decision. The Judge ruled in favor of Mr. Bak and denied the agency's motion for reconsideration.

The Judge gave damages and relief to Mr. Bak. The Judge gave time to Mr. Bak to submit evidence to his claim about what he was claiming monies were due to him. Sue Thompson was the advocate for the agency. She stated that the Postal Service would adhere to the Judges decision and pay him the lost wages and return him to his job.

Six months after the decision by Judge Hodges the Agency appealed the decision. The appeal by the Agency was ruled in favor of the Agency. Due to this new appeal Mr. Bak did not receive any of what Judge Hodges gave him in the original decision. Due to this Mr. Bak has never been able to get his job back or any back pay.

Sincerely,

Richard Cantu / President
SWCAL / APWU

Ueon Bak

UEON BAK
Complainant

1 STEPHANIE YONEKURA
2 Acting United States Attorney
3 LEON W. WEIDMAN
4 Assistant United States Attorney
5 Chief Civil Division
6 KATHERINE M. HIKIDA (Cal. Bar No. 153268)
7 Assistant United States Attorney
Federal Building, Suite 7516
300 North Los Angeles Street
Los Angeles, California 90012
Telephone: (213) 894-2285
Facsimile: (213) 894-7819
E-mail: katherine.hikida@usdoj.gov

8 Attorneys for Federal Defendants
9 PATRICK R. DONAHOE, Postmaster General
and United States Postal Service

10
11 UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA
13 SOUTHERN DIVISION

14 UEON BAK,

15 Plaintiff,

16 v.
17 PATRICK R. DONAHOE, Postmaster
General, U.S. Postal Service,

18 Defendants.

No. SA CV 14-1007-JVS(E)

FEDERAL DEFENDANTS'
NOTICE OF RELATED CASE

Honorable James V. Selna

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1 Federal Defendants hereby file this Notice of Related Case because the previously
2 filed actions, SA CV 93-181-AHS(EEx), CV 03-9377-R(CTx), SA CV 04-148-
3 AHS(ANx), SA CV 10-983-UA(DUTYx), SA CV 10-1013-AG(MLGx), and the instant
4 action are related within the meaning of L.R. 83-1.3.1 in that the cases appear to arise
5 from the same or a closely related transaction, happening or event. In all cases, Plaintiff
6 is alleging discrimination in that he allegedly was forced to resign from his employment
7 with the United States Postal Service in 1989 and/or denied reinstatement.

8
9 Dated: January 5, 2015

Respectfully submitted,

10 STEPHANIE YONEKURA
11 Acting United States Attorney
12 LEON W. WEIDMAN
Assistant United States Attorney
Chief, Civil Division

13 
14 _____
15 KATHERINE M. HIKIDA
Assistant United States Attorney

16 Attorneys for Federal Defendants
17 PATRICK R. DONAHOE, POSTMASTER
GENERAL and UNITED STATES POSTAL
18 SERVICE